

# SENATE BILL No. 1

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-12.4; IC 6-2.5; IC 6-3.1.

**Synopsis:** Tax incentives. Establishes a property tax investment deduction in declining amounts over three years for certain real property development, redevelopment, or rehabilitation that increases assessed value and creates or retains employment. Limits the deduction to \$10,000,000 of assessed value per year for real property located in a county. Establishes a similar deduction for the installation of personal property other than inventory subject to the same conditions and limitation. Exempts a person from 100% of the sales tax on research and development equipment acquired after June 30, 2007. Provides a refund of 50% of the sales taxes paid on transactions involving research and development equipment acquired after June 30, 2005, and before July 1, 2007. Provides for the economic development corporation to administer the economic development for a growing economy (EDGE) tax credit program and the Hoosier business investment tax credit. Increases the qualified research expense credit from 10% to 15% for taxable years beginning after December 31, 2007. Makes technical changes. Repeals the EDGE board.

**Effective:** July 1, 2005; January 1, 2006.

**Ford**

January 18, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

C  
o  
p  
y



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 1

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-1.1-12.4 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2006] :

4 **Chapter 12.4. Investment Deduction**

5 **Sec. 1. For purposes of this chapter, "official" means:**

- 6 (1) a county auditor;  
7 (2) a county assessor; or  
8 (3) a township assessor.

9 **Sec. 2. (a) For purposes of this section, an increase in the**  
10 **assessed value of real property is determined in the same manner**  
11 **that an increase in the assessed value of real property is**  
12 **determined for purposes of IC 6-1.1-12.1.**

13 **(b) This subsection applies only to a development,**  
14 **redevelopment, or rehabilitation that is first assessed after March**  
15 **1, 2005. Except as provided in subsection (h) and sections 4, 5, and**  
16 **8 of this chapter, an owner of real property that:**

- 17 (1) develops, redevelops, or rehabilitates the real property;



C  
o  
p  
y

and

(2) creates or retains employment from the development, redevelopment, or rehabilitation; is entitled to a deduction from the assessed value of the real property.

(c) The deduction under this section is first available in the year in which the increase in assessed value resulting from the development, redevelopment, or rehabilitation occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to real property located in a county for a particular year equals the lesser of:

(1) ten million dollars (\$10,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the development, rehabilitation, or redevelopment; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

(d) A property owner is not required to file an application to qualify for a deduction under this section. The township assessor shall:

(1) identify the real property eligible for the deduction to the county auditor; and

(2) inform the county auditor of the deduction amount.

(e) The county auditor shall:

(1) make the deductions; and

(2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

(f) The amount of the deduction determined under subsection (c)(2) is adjusted to reflect the percentage increase or decrease in assessed valuation that results from:

(1) a general reassessment of real property under IC 6-1.1-4-4; or

(2) an annual adjustment under IC 6-1.1-4-4.5.

(g) If an appeal of an assessment is approved that results in a reduction of the assessed value of the real property, the amount of the deduction under this section is adjusted to reflect the

C  
o  
p  
y



percentage decrease that results from the appeal.

(h) The deduction under this section does not apply to a facility listed in IC 6-1.1-12.1-3(e).

Sec. 3. (a) For purposes of this section, an increase in the assessed value of personal property is determined in the same manner that an increase in the assessed value of new manufacturing equipment is determined for purposes of IC 6-1.1-12.1.

(b) This subsection applies only to personal property that the owner installs after March 1, 2005. Except as provided in sections 4, 5, and 8 of this chapter, an owner that installs personal property other than inventory (as defined in 50 IAC 4.2-5-1, as in effect on January 1, 2005) that:

(1) was never before used by its owner for any purpose in Indiana; and

(2) creates or retains employment;

is entitled to a deduction from the assessed value of the personal property. For purposes of this subsection, personal property is considered to be installed if the property is installed as described in 50 IAC 10-1-2 (as in effect on January 1, 2005).

(c) The deduction under this section is first available in the year in which the increase in assessed value resulting from the installation of the personal property occurs and continues for the following two (2) years. The amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year equals the lesser of:

(1) ten million dollars (\$10,000,000); or

(2) the product of:

(A) the increase in assessed value resulting from the installation of the personal property; multiplied by

(B) the percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

(d) If an appeal of an assessment is approved that results in a reduction of the assessed value of the personal property, the amount of the deduction is adjusted to reflect the percentage decrease that results from the appeal.

(e) A property owner must claim the deduction under this section on the owner's annual personal property tax return. The township assessor shall:

**C  
o  
p  
y**



- (1) identify the personal property eligible for the deduction to the county auditor; and
- (2) inform the county auditor of the deduction amount.

(f) The county auditor shall:

- (1) make the deductions; and
- (2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

**Sec. 4. A property owner may not receive a deduction under this chapter with respect to real property or personal property located in an allocation area (as defined in IC 6-1.1-21.2-3).**

**Sec. 5. A property owner that qualifies for a deduction for a year under this chapter and another statute with respect to the same:**

- (1) real property development, redevelopment, or rehabilitation; or
- (2) personal property installation;

**may not receive a deduction under both statutes for the development, redevelopment, rehabilitation, or installation for that year.**

**Sec. 6. An official may:**

- (1) review the creation or retention of employment from:
  - (A) the development, redevelopment, or rehabilitation of real property; or
  - (B) the installation of personal property;
 that qualifies a property owner for a deduction under this chapter;
- (2) determine whether the creation or retention of employment described in subdivision (1) has occurred; and
- (3) if the official determines under subdivision (2) that:

- (A) the creation or retention of employment described in subdivision (1) has not occurred; and
- (B) the failure to create or retain employment was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services);

**mail a written notice to the property owner of a hearing on the termination of the deduction under this chapter.**

**Sec. 7. The written notice under section 6(3) of this chapter must include the following:**

- (1) An explanation of the reasons for the determination that the creation or retention of employment described in section

**C  
o  
p  
y**



6(1) of this chapter has not occurred.

(2) The date, time, and place of a hearing to be conducted:

(A) by the official; and

(B) not more than thirty (30) days after the date of the notice under section 6(3) of this chapter;

to further consider the property owner's creation or retention of employment as described in section 6(1) of this chapter.

Sec. 8. On the date specified in the notice described in section 6(3) of this chapter, the official shall conduct a hearing for the purpose of further considering the property owner's creation or retention of employment as described in section 6(1) of this chapter. Based on the information presented at the hearing by the property owner and other interested parties, the official shall determine whether the property owner has made reasonable efforts to create or retain employment as described in section 6(1) of this chapter and whether any failure to create or retain employment was caused by factors beyond the control of the property owner. If the official determines that the property owner has not made reasonable efforts to create or retain employment, the official shall determine that the property owner's deduction under this chapter is terminated. If the official terminates the deduction, the deduction does not apply to:

(1) the next installment of property taxes owed by the property owner; or

(2) any subsequent installment of property taxes.

Sec. 9. If an official terminates a deduction under section 8 of this chapter:

(1) the official shall immediately mail a certified copy of the determination to:

(A) the property owner; and

(B) if the determination is made by the county assessor or the township assessor, the county auditor;

(2) the county auditor shall:

(A) remove the deduction from the tax duplicate; and

(B) notify the county treasurer of the termination of the deduction; and

(3) if the official's determination to terminate the deduction occurs after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

Sec. 10. A property owner whose deduction is terminated under

C  
o  
p  
y



section 8 of this chapter may appeal the official's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. The court shall:

- (1) hear an appeal under this section promptly without a jury; and
- (2) determine the appeal not later than thirty (30) days after the date of the filing of the appeal.

The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

Sec. 11. If an appeal under section 10 of this chapter is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

Sec. 12. If ownership of the real property or new personal property changes, the deduction under this chapter continues to apply to the real property or personal property, and the amount of deduction is the product of:

- (1) the percentage under section 2(c)(2)(B) or 3(c)(2)(B) of this chapter that would have applied if the ownership of the property had not changed; multiplied by
- (2) the assessed value of the real property or personal property for the year the new owner qualifies for the deduction.

Sec. 13. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 39. (a) As used in this chapter, "research and development activities" does not include any of the following:

- (1) Efficiency surveys.
- (2) Management studies.
- (3) Consumer surveys.
- (4) Economic surveys.
- (5) Advertising or promotions.
- (6) Research in connection with literary, historical, or similar projects.

(b) As used in this section, "research and development equipment" means tangible personal property that:

- (1) consists of or is a combination of:
  - (A) laboratory equipment;

C  
o  
p  
y



- (B) computers;
- (C) computer software;
- (D) telecommunications equipment; or
- (E) testing equipment;
- (2) has not previously been used in Indiana for any purpose; and
- (3) is acquired by the purchaser for the purpose of research and development activities devoted directly and exclusively to experimental or laboratory research and development for:
  - (A) new products;
  - (B) new uses of existing products; or
  - (C) improving or testing existing products.

**(c) A retail transaction:**

- (1) involving research and development equipment; and
- (2) occurring after June 30, 2007;

**is exempt from the state gross retail tax.**

SECTION 3. IC 6-2.5-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 16. (a) As used in this section, "research and development equipment" has the meaning set forth in IC 6-2.5-5-39.**

**(b) A person is entitled to a refund equal to fifty percent (50%) of the gross retail tax paid by the person under this article in a retail transaction occurring after June 30, 2005, and before July 1, 2007, to acquire research and development equipment.**

**(c) To receive the refund provided by this section, a person must claim the refund under IC 6-8.1-9 in the manner prescribed by the department.**

SECTION 4. IC 6-3.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1. As used in this chapter:**

**"Base amount" means base amount (as defined in Section 41(c) of the Internal Revenue Code as in effect on January 1, 2001).**

**"Base period Indiana qualified research expense" means base period research expense that is incurred for research conducted in Indiana.**

**"Base period research expense" means base period research expense (as defined in Section 41(c) of the Internal Revenue Code before January 1, 1990).**

**"Indiana qualified research expense" means qualified research expense that is incurred for research conducted in Indiana.**

**"Qualified research expense" means qualified research expense (as defined in Section 41(b) of the Internal Revenue Code as in effect on**

**C  
o  
p  
y**





January 1, 2001).

"Pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

"Research expense tax credit" means a credit provided under this chapter against any tax otherwise due and payable under IC 6-3.

"Taxpayer" means an individual, a corporation, a limited liability company, a limited liability partnership, a trust, or a partnership that has any tax liability under IC 6-3 (adjusted gross income tax).

SECTION 5. IC 6-3.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. A taxpayer who incurs Indiana qualified research expense in a particular taxable year is entitled to a research expense tax credit for the taxable year in the amount of the product of:

(1) **for expenses incurred:**

(A) **before January 1, 2008**, ten percent (10%); **and**

(B) **after December 31, 2007**, **fifteen percent (15%)**; multiplied by

(2) the remainder of the taxpayer's Indiana qualified research expenses for the taxable year minus

~~(A) the taxpayer's base period Indiana qualified research expenses, for taxable years beginning before January 1, 1990;~~  
or

~~(B) the taxpayer's base amount, for taxable years beginning after December 31, 1989.~~

SECTION 6. IC 6-3.1-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) If a pass through entity does not have state income tax liability against which the research expense tax credit may be applied, a shareholder, ~~or~~ partner, **or member** of the pass through entity is entitled to a research expense tax credit equal to:

(1) the research expense tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, ~~or~~ partner, **or member** is entitled.

(b) The credit provided under subsection (a) is in addition to a research expense tax credit to which a shareholder, ~~or~~ partner, **or member** of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, ~~or~~ partner,

C  
o  
p  
y



1 **or member** of the pass through entity may not claim a credit under this  
2 chapter for the same qualified research expenses.

3 SECTION 7. IC 6-3.1-13-1.5 IS ADDED TO THE INDIANA  
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. As used in this chapter,**  
6 **"corporation" means the Indiana economic development**  
7 **corporation established by IC 4-1.5-3-1.**

8 SECTION 8. IC 6-3.1-13-2 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this  
10 chapter, "credit amount" means the amount agreed to between the  
11 ~~board~~ **corporation** and applicant under this chapter, but not to exceed,  
12 in the case of a credit awarded for a project to create new jobs in  
13 Indiana, the incremental income tax withholdings attributable to the  
14 applicant's project.

15 SECTION 9. IC 6-3.1-13-3 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this  
17 chapter, "director" means the **executive** director of the ~~department of~~  
18 ~~commerce.~~ **corporation.**

19 SECTION 10. IC 6-3.1-13-13 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The ~~board~~  
21 **corporation** may make credit awards under this chapter to foster job  
22 creation in Indiana or, as provided in section 15.5 of this chapter, job  
23 retention in Indiana.

24 (b) The credit shall be claimed for the taxable years specified in the  
25 taxpayer's tax credit agreement.

26 SECTION 11. IC 6-3.1-13-14 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. A person that  
28 proposes a project to create new jobs in Indiana may apply, as provided  
29 in section 15 of this chapter, to the ~~board~~ **corporation** to enter into an  
30 agreement for a tax credit under this chapter. A person that proposes to  
31 retain existing jobs in Indiana may apply, as provided in section 15.5  
32 of this chapter, to the ~~board~~ **corporation** to enter into an agreement for  
33 a tax credit under this chapter. The director shall prescribe the form of  
34 the application.

35 SECTION 12. IC 6-3.1-13-15 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. This section applies  
37 to an application proposing a project to create new jobs in Indiana.  
38 After receipt of an application, the ~~board~~ **corporation** may enter into  
39 an agreement with the applicant for a credit under this chapter if the  
40 ~~board~~ **corporation** determines that all of the following conditions exist:

- 41 (1) The applicant's project will create new jobs that were not jobs  
42 previously performed by employees of the applicant in Indiana.

C  
o  
p  
y



(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

~~(3) The political subdivisions affected by the project have committed significant local incentives with respect to the project.~~

~~(4)~~ (3) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

~~(5)~~ (4) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(6)~~ (5) The credit is not prohibited by section 16 of this chapter.

SECTION 13. IC 6-3.1-13-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the **board corporation** may enter into an agreement with the applicant for a credit under this chapter if the **board corporation** determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.

(3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.

(4) The applicant is engaged in research and development, manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).

(5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%).

(6) The applicant employs at least two hundred (200) employees in Indiana.

(7) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not

C  
o  
p  
y



- 1 limited to training.
- 2 (8) Receiving the tax credit is a major factor in the applicant's
- 3 decision to go forward with the project, and not receiving the tax
- 4 credit will increase the likelihood of the applicant reducing jobs
- 5 in Indiana.
- 6 (9) Awarding the tax credit will result in an overall positive fiscal
- 7 impact to the state, as certified by the budget agency using the
- 8 best available data.
- 9 (10) The applicant's business and project are economically sound
- 10 and will benefit the people of Indiana by increasing or
- 11 maintaining opportunities for employment and strengthening the
- 12 economy of Indiana.
- 13 (11) The communities affected by the potential reduction in jobs
- 14 or relocation of jobs to another site outside Indiana have
- 15 committed at least one dollar and fifty cents (\$1.50) of local
- 16 incentives with respect to the retention of jobs for every three
- 17 dollars (\$3) in credits provided under this chapter. For purposes
- 18 of this subdivision, local incentives include, but are not limited to,
- 19 cash grants, tax abatements, infrastructure improvements,
- 20 investment in facility rehabilitation, construction, and training
- 21 investments.
- 22 (12) The credit is not prohibited by section 16 of this chapter.
- 23 SECTION 14. IC 6-3.1-13-16 IS AMENDED TO READ AS
- 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A person is not
- 25 entitled to claim the credit provided by this chapter for any jobs that the
- 26 person relocates from one (1) site in Indiana to another site in Indiana.
- 27 Determinations under this section shall be made by the ~~board~~
- 28 **corporation**.
- 29 SECTION 15. IC 6-3.1-13-17 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the
- 31 credit amount that should be awarded to an applicant under section 15
- 32 of this chapter that proposes a project to create jobs in Indiana, the
- 33 ~~board~~ **corporation** shall take into consideration the following factors:
- 34 (1) The economy of the county where the projected investment is
- 35 to occur.
- 36 (2) The potential impact on the economy of Indiana.
- 37 (3) The incremental payroll attributable to the project.
- 38 (4) The capital investment attributable to the project.
- 39 (5) The amount the average wage paid by the applicant exceeds
- 40 the average wage paid within the county in which the project will
- 41 be located.
- 42 (6) The costs to Indiana and the affected political subdivisions

C  
o  
p  
y



1 with respect to the project.

2 (7) The financial assistance **and incentives** that ~~is~~ **are** otherwise  
3 provided by Indiana and the affected political subdivisions.

4 As appropriate, the **board corporation** shall consider the factors in this  
5 section to determine the credit amount awarded to an applicant for a  
6 project to retain existing jobs in Indiana under section 15.5 of this  
7 chapter. In the case of an applicant under section 15.5 of this chapter,  
8 the **board corporation** shall consider the magnitude of the cost  
9 differential between the projected costs for the applicant's project in the  
10 competing site outside Indiana and the projected costs for the  
11 applicant's project in Indiana.

12 SECTION 16. IC 6-3.1-13-18 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) The **board**  
14 **corporation** shall determine the amount and duration of a tax credit  
15 awarded under this chapter. The duration of the credit may not exceed  
16 ten (10) taxable years. The credit may be stated as a percentage of the  
17 incremental income tax withholdings attributable to the applicant's  
18 project and may include a fixed dollar limitation. In the case of a credit  
19 awarded for a project to create new jobs in Indiana, the credit amount  
20 may not exceed the incremental income tax withholdings. However, the  
21 credit amount claimed for a taxable year may exceed the taxpayer's  
22 state tax liability for the taxable year, in which case the excess ~~shall~~  
23 **may, at the discretion of the corporation,** be refunded to the  
24 taxpayer.

25 (b) For state fiscal years 2004 and 2005, the aggregate amount of  
26 credits awarded under this chapter for projects to retain existing jobs  
27 in Indiana may not exceed five million dollars (\$5,000,000) per year.

28 SECTION 17. IC 6-3.1-13-19 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. In the case of a  
30 credit awarded for a project to create new jobs in Indiana, the **board**  
31 **corporation** shall enter into an agreement with an applicant that is  
32 awarded a credit under this chapter. The agreement must include all of  
33 the following:

34 (1) A detailed description of the project that is the subject of the  
35 agreement.

36 (2) The duration of the tax credit and the first taxable year for  
37 which the credit may be claimed.

38 (3) The credit amount that will be allowed for each taxable year.

39 (4) A requirement that the taxpayer shall maintain operations at  
40 the project location for at least two (2) times the number of years  
41 as the term of the tax credit. A taxpayer is subject to an  
42 assessment under section 22 of this chapter for noncompliance

C  
o  
p  
y



with the requirement described in this subdivision.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(6) A requirement that the taxpayer shall annually report to the ~~board~~ **corporation** the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the ~~board~~ **corporation** not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the ~~board~~ **corporation** determines are appropriate.

SECTION 18. IC 6-3.1-13-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the ~~board~~ **corporation** shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the business that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A requirement that the applicant shall annually report the following to the ~~board~~ **corporation**:

(A) The number of employees who are employed in Indiana by the applicant.

(B) The compensation (including benefits) paid to the

C  
o  
p  
y



applicant's employees in Indiana.

(C) The amount of the:

(i) facility improvements;

(ii) equipment and machinery upgrades, repairs, or retrofits;

or

(iii) other direct business related investments, including training.

(6) A requirement that the applicant shall provide written notification to the director and the ~~board~~ **corporation** not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.

(7) A requirement that the chief executive officer of the company applying for a credit under this chapter must verify under penalty of perjury that the disparity between projected costs of the applicant's project in Indiana compared with the costs for the project in a competing site is real and actual.

(8) Any other performance conditions that the ~~board~~ **corporation** determines are appropriate.

(b) An agreement between an applicant and the ~~board~~ **corporation** must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana.

SECTION 19. IC 6-3.1-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A taxpayer claiming a credit under this chapter **must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit. all information that the department determines necessary for the calculation of the credit provided by this chapter and the determination of whether the credit was properly claimed.**

SECTION 20. IC 6-3.1-13-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income

C  
o  
p  
y



to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) This subsection applies only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13. At the request of a pass through entity, if the ~~board~~ **corporation** finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid within the county in which the project will be located, the ~~board~~ **corporation** may determine that:

- (1) the credit shall be claimed by the pass through entity; and
- (2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.

If the ~~board~~ **corporation** grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 21. IC 6-3.1-13-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If the ~~director~~ **department of state revenue or the corporation** determines that a taxpayer who has ~~received~~ **claimed** a credit under this chapter is not ~~complying~~ **entitled to the credit because of the taxpayer's noncompliance** with the requirements of the tax credit agreement or all of the provisions of this chapter, the ~~director~~ **department or the corporation** shall, after giving the taxpayer an opportunity to explain the noncompliance, ~~notify the department of commerce of the noncompliance and request impose~~ **an assessment** ~~The director shall state the on the taxpayer in an amount of the assessment, which that~~ may not exceed the sum of any previously allowed credits under this chapter ~~After receiving such a notice, the department of commerce shall make an assessment against the taxpayer under IC 6-8-1 for the amount stated in the director's notice: together with interest and penalties required or permitted by law.~~

SECTION 22. IC 6-3.1-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. On or before March 31 each year, the director shall submit a report to the ~~board~~ **corporation** on the tax credit program under this chapter. The report

C  
o  
p  
y





1 shall include information on the number of agreements that were  
 2 entered into under this chapter during the preceding calendar year, a  
 3 description of the project that is the subject of each agreement, an  
 4 update on the status of projects under agreements entered into before  
 5 the preceding calendar year, and the sum of the credits awarded under  
 6 this chapter. A copy of the report shall be transmitted in an electronic  
 7 format under IC 5-14-6 to the executive director of the legislative  
 8 services agency for distribution to the members of the general  
 9 assembly.

10 SECTION 23. IC 6-3.1-13-24 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On a biennial basis,  
 12 the ~~board~~ **corporation** shall provide for an evaluation of the tax credit  
 13 program, giving first priority to using the Indiana economic  
 14 development council, established under IC 4-3-14-4. The evaluation  
 15 shall include an assessment of the effectiveness of the program in  
 16 creating new jobs and retaining existing jobs in Indiana and of the  
 17 revenue impact of the program, and may include a review of the  
 18 practices and experiences of other states with similar programs. The  
 19 director shall submit a report on the evaluation to the governor, the  
 20 president pro tempore of the senate, and the speaker of the house of  
 21 representatives after June 30 and before November 1 in each  
 22 odd-numbered year.

23 SECTION 24. IC 6-3.1-13-25 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. The ~~department of~~  
 25 ~~commerce~~ **corporation** may adopt rules under IC 4-22-2 necessary to  
 26 implement this chapter. The rules may provide for recipients of tax  
 27 credits under this chapter to be charged fees to cover administrative  
 28 costs of the tax credit program. Fees collected shall be deposited in the  
 29 economic development for a growing economy fund.

30 SECTION 25. IC 6-3.1-13-26 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The economic  
 32 development for a growing economy fund is established to be used  
 33 exclusively for the purposes of this chapter and IC 6-3.1-26, including  
 34 paying for the costs of administering this chapter and IC 6-3.1-26. The  
 35 fund shall be administered by the ~~department of commerce~~  
 36 **corporation**.

37 (b) The fund consists of collected fees, appropriations from the  
 38 general assembly, and gifts and grants to the fund.

39 (c) The treasurer of state shall invest the money in the fund not  
 40 currently needed to meet the obligations of the fund in the same  
 41 manner as other public funds may be invested. Interest that accrues  
 42 from these investments shall be deposited in the fund.

C  
o  
p  
y



(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 26. IC 6-3.1-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Subject to all other requirements of this chapter, the **board corporation** may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5) if:

- (1) the nonprofit organization:
  - (A) is a taxpayer (as defined in section 10 of this chapter); and
  - (B) meets all requirements of this chapter; and
- (2) all of the following conditions are satisfied:
  - (A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average county wage, as determined by the ~~department of commerce~~, **corporation**, in the county where the project for which the credit is granted will be located.
  - (B) The organization must make an investment of at least fifty million dollars (\$50,000,000) in capital assets.
  - (C) The affected political subdivision must provide substantial financial assistance to the project.
  - (D) The incremental payroll attributable to the project must be at least ten million dollars (\$10,000,000) annually.
  - (E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.
  - (F) The organization does not receive any deductions from the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.
  - (G) The organization pays all of the organization's ad valorem property taxes to the taxing units in the taxing district in which the project is located.
  - (H) The project for which the credit is granted must be located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding section 6(a) of this chapter, the **board corporation** may award credits to an organization under subsection (a)

C  
o  
p  
y



1 if:

- 2 (1) the organization met all other conditions of this chapter at the
- 3 time of the applicant's location or expansion decision;
- 4 (2) the applicant is in receipt of a letter from the department of
- 5 commerce stating an intent to pursue a credit agreement; and
- 6 (3) the letter described in subdivision (2) is issued by the
- 7 department of commerce not later than January 1, 2000.

8 SECTION 27. IC 6-3.1-26-2.5 IS ADDED TO THE INDIANA  
 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. As used in this chapter,**  
 11 **"corporation" means the Indiana economic development**  
 12 **corporation established by IC 4-1.5-3-1.**

13 SECTION 28. IC 6-3.1-26-8 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this  
 15 chapter, "qualified investment" means the amount of the taxpayer's  
 16 expenditures for:

- 17 (1) the purchase of new telecommunications, production,
- 18 manufacturing, fabrication, assembly, extraction, mining,
- 19 processing, refining, or finishing equipment;
- 20 (2) the purchase of new computers and related equipment;
- 21 (3) costs associated with the modernization of existing
- 22 telecommunications, production, manufacturing, fabrication,
- 23 assembly, extraction, mining, processing, refining, or finishing
- 24 facilities;
- 25 (4) onsite infrastructure improvements;
- 26 (5) the construction of new telecommunications, production,
- 27 manufacturing, fabrication, assembly, extraction, mining,
- 28 processing, refining, or finishing facilities;
- 29 (6) costs associated with retooling existing machinery and
- 30 equipment; and
- 31 (7) costs associated with the construction of special purpose
- 32 buildings and foundations for use in the computer, software,
- 33 biological sciences, or telecommunications industry;

34 that are certified by the ~~board~~ **corporation** under this chapter as being  
 35 eligible for the credit under this chapter.

36 (b) The term does not include property that can be readily moved  
 37 outside Indiana.

38 SECTION 29. IC 6-3.1-26-12 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The ~~board~~  
 40 **corporation** may make credit awards under this chapter to foster job  
 41 creation and higher wages in Indiana.

42 SECTION 30. IC 6-3.1-26-13 IS AMENDED TO READ AS

C  
o  
p  
y



1       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A taxpayer that:  
 2           (1) is awarded a tax credit under this chapter by the ~~board~~  
 3           **corporation**; and  
 4           (2) complies with the conditions set forth in this chapter and the  
 5           agreement entered into by the ~~board~~ **corporation** and the taxpayer  
 6           under this chapter;  
 7       is entitled to a credit against the taxpayer's state tax liability in a  
 8       taxable year.

9       SECTION 31. IC 6-3.1-26-17 IS AMENDED TO READ AS  
 10       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. A person that  
 11       proposes a project to create new jobs or increase wage levels in Indiana  
 12       may apply to the ~~board~~ **corporation** before the taxpayer makes the  
 13       qualified investment to enter into an agreement for a tax credit under  
 14       this chapter. The director shall prescribe the form of the application.

15       SECTION 32. IC 6-3.1-26-18 IS AMENDED TO READ AS  
 16       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. After receipt of an  
 17       application, the ~~board~~ **corporation** may enter into an agreement with  
 18       the applicant for a credit under this chapter if the ~~board~~ **corporation**  
 19       determines that all the following conditions exist:

20           (1) The applicant has conducted business in Indiana for at least  
 21           one (1) year immediately preceding the date the application is  
 22           received.

23           (2) The applicant's project will raise the total earnings of  
 24           employees of the applicant in Indiana.

25           (3) The applicant's project is economically sound and will benefit  
 26           the people of Indiana by increasing opportunities for employment  
 27           and strengthening the economy of Indiana.

28           (4) Receiving the tax credit is a major factor in the applicant's  
 29           decision to go forward with the project and not receiving the tax  
 30           credit will result in the applicant not raising the total earnings of  
 31           employees in Indiana.

32           (5) Awarding the tax credit will result in an overall positive fiscal  
 33           impact to the state, as certified by the budget agency using the  
 34           best available data.

35           (6) The credit is not prohibited by section 19 of this chapter.

36           (7) The average wage that will be paid by the taxpayer to its  
 37           employees (excluding highly compensated employees) at the  
 38           location after the credit is given will be at least equal to one  
 39           hundred fifty percent (150%) of the hourly minimum wage under  
 40           IC 22-2-2-4 or its equivalent.

41       SECTION 33. IC 6-3.1-26-19 IS AMENDED TO READ AS  
 42       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. A person is not

C  
o  
p  
y



entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the ~~board~~ **corporation**.

SECTION 34. IC 6-3.1-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. The ~~board~~ **corporation** shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the ~~board~~ **corporation** shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

SECTION 35. IC 6-3.1-26-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The ~~board~~ **corporation** shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.
- (4) The maximum tax credit amount that will be allowed for each taxable year.
- (5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (7) A requirement that the taxpayer shall annually report to the ~~board~~ **corporation** the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the director's duties under this chapter.
- (8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (9) A requirement that the taxpayer shall pay an average wage to

C  
o  
p  
y



all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the **board corporation** not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the **board corporation** determines are appropriate.

SECTION 36. IC 6-3.1-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. On or before March 31 each year, the director shall submit a report to the **board corporation** on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be transmitted in an electronic format under IC 5-14-6 to the executive director of the legislative services agency for distribution to the members of the general assembly.

SECTION 37. IC 6-3.1-26-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. On a biennial basis, the **board corporation** shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council established under IC 4-3-14. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the

C  
o  
p  
y



senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year.

SECTION 38. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-3.1-13-1; IC 6-3.1-13-12; IC 6-3.1-26-2.

SECTION 39. [EFFECTIVE JULY 1, 2005] (a) **IC 6-1.1-12.4, as added by this act, applies only to:**

(1) **real property development, redevelopment, or rehabilitation; and**

(2) **personal property installation;**

**that occurs as described in that chapter after March 1, 2005.**

(b) **The definitions in IC 6-2.5 apply throughout this subsection. For purposes of IC 6-2.5-6-16, as added by this act, all transactions shall be considered as having occurred after June 30, 2005, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2005, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2005, and payment for the property or services furnished in the transaction is made before July 1, 2005, notwithstanding the delivery of the property or services after June 30, 2005.**

(c) **The definitions in IC 6-2.5 apply throughout this subsection. For purposes of IC 6-2.5-5-39, as added by this act, all transactions shall be considered as having occurred after June 30, 2007, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before July 1, 2007, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2007, and payment for the property or services furnished in the transaction is made before July 1, 2007, notwithstanding the delivery of the property or services after June 30, 2007.**

(d) **IC 6-3.1-4-2, as amended by this act, applies only to taxable years beginning after December 31, 2007.**

**C  
o  
p  
y**

